

Notice of Allowability

Application No.

10/623,271

Examiner

Camtu T. Nguyen

Applicant(s)

BREWER, JEFFREY L.

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/11/2008 (supplemental amendment) & 1/24/08 (amendment).
2. ☒ The allowed claim(s) is/are 1,3-5,9,11-13,16,18-20 and 22-38.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>3/6/08</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Response to Amendment

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1-24-2008 has been entered. In it, claims 1, 12, 16, 22, 23, 26-28, 30, 32, and 33 have been amended. Claims 10 & 21 have been cancelled. Claims 36-38 are newly added.

Since then, applicant has supplemental amendment filed on 3-11-2008. Claims 1, 9, 16, 23, 24, 27, and 30 have been amended relative to the amendment of 1/24/2008.

Drawings

The drawings of Figures 1-8 were received on 8-29-2005. These drawings are approved.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Loren Helmreich on 3/12/2008 & 4/28/2008.

The application has been amended as follows:

In claim 1, line 16, after the "unit" and before the "when worn by the user", insert "by a plurality of connectors".

In claim 16, line 5, after the term "support member," and before the term "and, a plurality of apertures", insert --a fastener extending between said support member and support pad--.

In claim 16, line 7, the term "said fastener" has been replaced by --a fastener--.

In claim 16, line 11, the term "metacarpal pad" has been replaced by --internal pad--.

In claim 16, line 16, after the "base unit" and before the "when worn by the user", insert "by a plurality of connectors".

In claim 27, lines 13 & 14, after the "a hinge system connecting said base unit to metacarpal unit" and before the "said hinge system", insert "by a plurality of connectors".

In claim 30, lines 11 & 12, after the "a hinge system connecting said base unit to metacarpal unit" and before the "said hinge system", insert "by a plurality of connectors".

In claims 4 & 18, line 4, the term "Kevlar" has been replaced by --aramid fiber--.

In the specification, page 9 line 11, the term "Kevlar" has been replaced by --KEVLAR™ (aramid fiber)--.

In the specification, page 11 line 16, the term "Kevlar" has been replaced by -- KEVLAR™ (aramid fiber)--.

In the specification, page 13 line 14, the term "Kevlar" has been replaced by -- KEVLAR™ (aramid fiber)--.

Allowable Subject Matter

Claims 1, 3-5, 9, 11-13, 16, 18-20, 22-38 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: the art of record when applied alone or in combination neither renders obvious an orthotic device to be worn by a user comprising elements as recited in independent claims 1, 16, 23, 27, and 30, particularly including a hinge system movably connecting the base unit to the metacarpal unit by a plurality of connectors, specifically a pair of connectors movably connecting the hinge system to the base unit and another connector in the form of a swivel joint movably connecting the hinge system to the metacarpal unit, such that metacarpal unit pivots vertically about the pair of connectors and as well as pivots laterally transverse relative to the base unit.

U.S. Patent No. 6,443,918 to Wang discloses adjustable splint (10) comprising the arm support (12) movably connected to the forearm support (14) via a pair swivels (50, 54), allowing the arm support (12) to pivot vertically manner relative to the forearm (14) but arm support (12) does not appear pivots laterally relative forearm support (14). In short, the Wang splint (10) comprising a pair of swivels/connectors allowing only vertical movement while applicant's orthotic device comprising 3 connectors allowing for vertical & lateral transverse movements.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camtu T. Nguyen whose telephone number is 571-272-4799. The examiner can normally be reached on (M-F) 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Camtu T. Nguyen/
Examiner, Art Unit 3772

/Patricia Bianco/
Supervisory Patent Examiner, Art Unit 3772